

PUBLIC NOTICE
INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION
CITY OF SAN JOSÉ, CALIFORNIA

Project File Number, Description, and Location

PDC08-038: Planned Development Rezoning from R-1-8 Residence Zoning District to A(PD) Planned Development Zoning District to allow up to 84 attached residential units on a 1.92 gross acres site located on the south side of E. San Antonio Street approximately 950 feet east of S. 24th Street. (Neighborhood Housing Services, Owners/ROEM Development, Developer) Council District: 3

California State Law requires the City of San José to conduct environmental review for all pending projects that require a public hearing. Environmental review examines the nature and extent of any potentially significant adverse effects on the environment that could occur if a project is approved and implemented. The Director of Planning, Building & Code Enforcement would require the preparation of an Environmental Impact Report if the review concluded that the proposed project could have a significant unavoidable effect on the environment. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present. The project location **does not** contain a listed toxic site.

Based on an initial study, the Director has concluded that the project described above will not have a significant effect on the environment. We have sent this notice to all owners and occupants of property within 1,000 feet of the proposed project to inform them of the Director's intent to adopt a Mitigated Negative Declaration for the proposed project on **November 18, 2008**, and to provide an opportunity for public comments on the draft Mitigated Negative Declaration. The public review period for this draft Mitigated Negative Declaration begins on **October 29, 2008** and ends on **November 18, 2008**.

A public hearing on the project described above is tentatively scheduled for **November 19, 2008 at 6:30 p.m.** in the City of San Jose Council Chambers, 200 East Santa Clara Street, San Jose, CA 95113. The draft Mitigated Negative Declaration, initial study, and reference documents are available for review under the above file number from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, City Hall, 200 East Santa Clara Street, San José CA 95113-1905. The documents are also available at the Dr. Martin Luther King, Jr. Main Library, 150 E. San Fernando St, San José, CA 95112, and online at <http://www.sanjoseca.gov/planning/eir/MND.asp> Adoption of a Negative Declaration does not constitute approval of the proposed project. The decision to approve or deny the project described above will be made separately as required by City Ordinance. For additional information, please call **Licinia McMorro** at (408) 535-7814.

Joseph Horwedel, Director
Planning, Building and Code Enforcement

Circulated on: October 29, 2008



Deputy

DRAFT
MITIGATED NEGATIVE DECLARATION

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

NAME OF PROJECT: San Antonio Apartments

PROJECT FILE NUMBER: PDC08-038

PROJECT DESCRIPTION: Planned Development Rezoning from R-1-8 Residence Zoning District to A(PD) Planned Development Zoning District to allow up to 84 attached residential units on a 1.92 gross acres site and subsequent permits.

PROJECT LOCATION & ASSESSORS PARCEL NO.: South side of E. San Antonio Street approximately 950 feet east of S. 24th Street; 472-05-032, -033, and -034

COUNCIL DISTRICT: 3

APPLICANT CONTACT INFORMATION: Jim Rendler, ROEM Development Corporation, 1650 Lafayette Street, Santa Clara, CA 95050

FINDING

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

I. AESTHETICS – The project will not have a significant impact on this resource, therefore no mitigation is required.

II. AGRICULTURE RESOURCES – The project will not have a significant impact on this resource, therefore no mitigation is required.

III. AIR QUALITY – The following measures will be implemented by proposed project during all phases of construction to prevent visible dust emissions from leaving the site:

- Water all active construction areas at least twice daily and more often during windy periods to prevent visible dust from leaving the site; active areas adjacent to existing land uses shall be kept damp at all times, or shall be treated with non-toxic stabilizers or dust palliatives.
- Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two (2) feet of freeboard.
- Pave, apply water at least three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
- Sweep daily (or more often if necessary) to prevent visible dust from leaving the site (preferably with water sweepers) all paved access roads, parking areas, and staging areas at construction sites; water sweepers shall vacuum up excess water to avoid runoff-related impacts to water quality.
- Sweep streets daily, or more often if necessary (preferably with water sweepers) if visible soil material is carried onto adjacent public streets.
- Install wheel washers for all existing trucks, or wash off the tires or tracks of all trucks and equipment leaving the site.
- Install wind breaks, or plant trees/ vegetative wind breaks at windward side(s) of construction areas.
- Suspend excavation and grading activities when winds instantaneous gusts exceed 25 mph.
- Limit the area subject to excavation grading, and other construction activity at any one time.

IV. BIOLOGICAL RESOURCES – The following standard measures will be implemented by the project to reduce impacts to nesting raptors and pallid bat and/or Townsend's big-eared bat to a less than significant level:

Raptors

If possible, construction should be scheduled between October and December (inclusive) to avoid the raptor nesting season. If this is not possible, pre-construction surveys for nesting raptors shall be completed by a qualified ornithologist to identify active raptor nests that may be disturbed during project implementation. Between January and April (inclusive) pre-construction surveys shall be completed no more than 14 days prior to the initiation of construction activities or tree relocation or removal. Between May and August (inclusive), pre-construction surveys shall be completed no more than thirty (30) days prior to the initiation of these activities. The surveying ornithologist shall inspect all trees in and immediately adjacent to the construction area for raptor nests. If an active raptor nest is found in or close enough to the construction area to be disturbed by project construction, the ornithologist shall, in consultation with the State of California, Department of Fish & Game (CDFG), designate a construction-free buffer zone (typically 250 feet) around the nest. The applicant shall submit a report to the City's Environmental Principal Planner indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning prior to the issuance of any grading or building permit.

Bats

Surveys for roosting bats shall be completed by a qualified biologist no more than thirty (30) days prior to any building demolition or removal, construction activities or oak tree relocation and/or removal. If a female or maternity colony of bats is found on the project site, and the project can be constructed without disturbance to the roosting colony, a bat biologist shall designate buffer zones (both physical and temporal) as necessary to ensure the continued success of the colony. Buffer zones may include a 200-foot buffer zone from the roost and/or timing of the construction activities outside the maternity roosting season (after July 31 and before March 1). If an active nursery roost is

known to occur on the site and the project cannot be constructed outside of the maternity roosting season, bats may be excluded after July 31 and before March 1 to prevent the formation of maternity colonies. This exclusion shall occur under the direction of a bat biologist, by sealing openings and providing bats with one-way exclusion doors. In order to avoid excluding all potential maternity roosting habitat simultaneously, alternative roosting habitat, as determined by the bat biologist, shall be in place at least one summer season prior to the exclusion. Bat roosts shall be monitored as determined necessary by a qualified bat biologist, and the removal or displacement of bats shall be performed in conformance with the requirements of the CDFG. A biologist report outlining the results of pre-construction surveys and any recommended buffer zones or other mitigation shall be submitted to the satisfaction of the City's Environmental Principal Planner prior to the issuance of any grading, building, or tree removal permit.

V. CULTURAL RESOURCES – The following mitigation measures will be implemented by the project to reduce impacts to archaeological resources.

- A qualified archaeologist shall be retained to monitor site clearing and initial site grading and trenching until the archaeologist is satisfied that there is no further potential for the discovery of potentially significant archaeological materials and/or human remains.
- If no resources are discovered, the archaeologist shall submit a report to the City's Environmental Principal Planner verifying that the required monitoring occurred and that no further mitigation is necessary.
- In the event that any potentially significant archaeological materials are encountered, work should be halted inside the zone designated by a qualified archaeologist until a plan for the evaluation of the resource has been submitted to the City's Environmental Principal Planner by the project archaeologist.
- If evaluation demonstrates California Register of Historic Resources (CRHR) eligibility, a plan for mitigation of impacts to the resource shall be submitted to the City's Environmental Principal Planner by the project archaeologist before construction related earthmoving is allowed to recommence inside the zone designated as archaeologically sensitive. Mitigation can take the form of additional data retrieval through hand excavation coupled with archaeological monitoring to insure that all significant archaeological materials and/or other forms of information are retrieved and/or removed for analysis.
- In the event that human remains and/or cultural materials are found, all project-related construction shall cease within a 50-foot radius in order to proceed with the testing and mitigation measures required. Pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code of the State of California:
- In the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.

- A final report shall be submitted to the City's Environmental Principal Planner prior to release of a Certificate of Occupancy. This report shall contain a description of the mitigation programs and its results including a description of the monitoring and testing program, a list of the resources found, a summary of the resources analysis methodology and conclusions, and a description of the disposition/curation of the resources. The report shall verify completion of the mitigation program to the satisfaction of the City's Environmental Principal Planner.

VI. GEOLOGY AND SOILS – The project will not have a significant impact on this resource, therefore no mitigation is required.

VII. HAZARDS AND HAZARDOUS MATERIALS – The following measures will be implemented by the project to reduce impacts resulting from hazards or hazardous materials.

- The motor vehicles, related body and motor parts, tires, rubbish, paint, batteries, oil, gas cylinders, and other items shall be cleared from the site and disposed in accordance with state and federal regulations by a qualified contractor.
- Any unknown fluids on the site shall be sampled, analyzed and disposed in accordance with state and federal regulations by a qualified contractor.
- Once the site is cleared, subsurface soil sampling with chemical analysis will be completed by a qualified contractor for all suspect soil stains to ascertain the type, presence and depth of potential contaminants. All soil stained areas will be over-excavated and the contaminated soil will be disposed in accordance with state and federal regulations by a qualified contractor.

VIII. HYDROLOGY AND WATER QUALITY – The project will not have a significant impact on this resource, therefore no mitigation is required.

IX. LAND USE AND PLANNING – The project will not have a significant impact on this resource, therefore no mitigation is required.

X. MINERAL RESOURCES – The project will not have a significant impact on this resource, therefore no mitigation is required.

XI. NOISE – All new multi-family housing is subject to the requirements of Title 24, Part 2, of the State Building Code. Since noise levels exceed 60 DNL on the site, an analysis detailing the treatments incorporated into the building plans shall be prepared and submitted to the City Building Department prior to issuance of a building permit. The report shall demonstrate that the design would achieve an interior DNL of 45 or less in all habitable residential areas.

XII. POPULATION AND HOUSING – The project will not have a significant impact on this resource, therefore no mitigation is required.

XIII. PUBLIC SERVICES – The project will not have a significant impact on this resource, therefore no mitigation is required.

XIV. RECREATION – The project will not have a significant impact on this resource, therefore no mitigation is required.

XV. TRANSPORTATION / TRAFFIC – The following standard measures will be implemented by the project to reduce impacts resulting from transportation and traffic.

- Parking shall be restricted 60 feet east (along the project's East San Antonio Street frontage) and 35 feet west (between the project driveway and the adjacent property's driveway), which would allow outbound vehicles to have adequate sight distance.

XVI. UTILITIES AND SERVICE SYSTEMS – The project will not have a significant impact on this resource, therefore no mitigation is required.

XVII. MANDATORY FINDINGS OF SIGNIFICANCE – The project will not substantially reduce the habitat of a fish or wildlife species, be cumulatively considerable, or have a substantial adverse effect on human beings, therefore no additional mitigation is required.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **November 18, 2008**, any person may:

Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or

Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND.

Joseph Horwedel, Director
Planning, Building and Code Enforcement

Circulated on: October 28, 2008
Deputy



Adopted on: _____
Deputy
